Humanitarian Intervention as a 'Responsibility to Protect': An International Society Approach

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Abstract

This article proposes to explain the post-Cold War practice of humanitarian intervention by drawing on the English School's international society approach. It argues that although the sovereignty versus human rights debate traditionally was framed in dichotomized terms, the post-Cold War practice of humanitarian intervention illustrated the possibility of a via media approach to these competing normative claims. Post-Cold War developments regarding the place of the conventional norms of sovereignty and non-intervention on the one hand and the growing space for the protection of human rights on the other, have eased worries about the prospect for order in the international system and created a suitable environment for including of humanitarian intervention without jeopardizing that order. To contextualize this development, the article will argue that Hedley Bull's discussion of such key terms as the international society, the centrality of states, the importance of norms, and normative change helps explain intervention in today's world. By building on that framework, the article draws attention to the enabling and constraining factors highlighted by the international society approach, and as such, concludes that the English school suggests both promise and caution regarding the prospects for humanitarian intervention in modern international relations.

Keywords: humanitarian intervention, responsibility to protect, international society, sovereignty, non-intervention.

1. Introduction

Humanitarian intervention has been a subject of academic interest in modern international law, ethics, political theory, and international relations for the last two centuries. Although the idea to use force for other-regarding purposes has a long history and is morally compelling, its application into state practice has been inconsistent, depending mainly on international rules and practices regarding the use of coercive force, the international community's attitude toward intervention into domestic affairs, and the place of humanitarian considerations in state conduct. Because the principles of non-intervention, non-use of force, and sovereignty underpin the post-World War II international system, the room allowed for humanitarian intervention in state practice has been limited.

In the post-Cold War era, the scope of human rights expanded thanks to the new international environment, while the traditional norms of non-intervention and sovereignty were subjected to a new interpretation. Moreover, the end of the Cold War, and the emerging international system were characterized by increasing possibilities for international cooperation among

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major powers. Therefore, in the new era the UN Security Council was able to realize its powers under the UN Charter's Chapter VII and thus came closer to orchestrating the collective security system laid down in it. As a result, humanitarian intervention made its way into the practice and study of international relations in the first decade of the post-Cold War period.

The enthusiasm for intervention dissipated by the new millennium, and several proposals to codify a doctrine of humanitarian intervention in international law bore no fruit. Through various practical and conceptual innovations, however, humanitarian intervention came to be recognized as a reality of the modern interstate system. The half-hearted international consensus was captured by the idea of 'sovereignty as responsibility,' which has been advocated by the United Nations and some Western states in the form of the 'responsibility to protect' (R2P) doctrine. Under this emerging norm, extreme cases of human suffering caused by a state's failure to respect or protect individual rights of its own citizens, could warrant intervention by the international community.

Interestingly, as much as instances of intervention, the inaction of the international community in similar cases of human suffering too rendered humanitarian intervention one of the most controversial topics of our time. The UN-authorized intervention in Libya and disinterest in intervention in Syria in the last two years have reignited the debate on the relevance of humanitarian intervention for the modern-day international system. Countries that have objected to invoking the R2P doctrine to address the tragedy in Syria have referred to the principles of sovereignty and non-intervention in domestic affairs. In many ways, the Syrian case is a fresh reminder to refocus attention on a centuries-old problematic relationship between human rights and sovereignty. The crux of this issue revolves around the incompatibility between promoting human rights on an international level and the principle of non-intervention, which is a derivative of the norm of sovereignty.

In what follows, it will be argued that although the sovereignty versus human rights debate traditionally has been framed in dichotomized terms, the practice of humanitarian intervention in the first decade following the end of the Cold War illustrated the possibility of a *via media* approach to these competing normative claims. Moreover, the article will argue that the English School provides a relevant theoretical framework to explain this new consensus on humanitarian intervention. Drawing largely on Hedley Bull's work on international society, it will expand on how English School concepts such as the international society, the centrality of states, the importance of norms, and normative change help explain intervention in today's world. In particular, they help describe not only the conditions under which incorporating humanitarian intervention would be possible but also the resistance to this concept in state practice.

2. How did We Get Here? An International Society Approach to Humanitarian Intervention

Humanitarian intervention may be defined as

> forcible action by a state, a group of states or international organizations to prevent or to end gross violations of human rights on behalf of the nationals of the target state, through the use or threat of armed force without the consent of the target government, with or without UN authorization.[1]

[1] For more on the definitional issues, see Saban Kardas, "Humanitarian Intervention: A Conceptual Analysis," *Alternatives: Turkish Journal of International Relations* 2 (2003): 21-49.

Because the use of force is regulated by the UN Security Council (SC), any humanitarian intervention can be categorized according to the existence of a UN authorization. By interpreting its Chapter VII powers in an expansionary manner, the SC was successful in accommodating humanitarian intervention within the UN system and providing it with a certain degree of legitimacy in the first decade of the post-Cold War era. Moreover, despite its unsettled legal position, the practice of humanitarian intervention without SC authorization also endured during this period and was received positively on moral and political grounds by many actors. As a result, incorporating humanitarian intervention into state practice has taken two distinct forms: UN Security Council-authorized interventions and unilateral interventions. Although the latter is more controversial than the former due to its shaky legal standing, a growing international acceptance emerged around the concept throughout the 1990s.

International relations scholars have produced a wide body of literature to explain the place of humanitarian intervention in modern-day international relations, especially as how it relates to the main pillars of the international system. As Donnelly puts it, humanitarian intervention presents "a genuine moral dilemma in which important and well-established principles (human rights and non-intervention) conflict so fundamentally that reasonable men of good will may disagree on how that conflict is to be resolved."[2]

Indeed, at the heart of the debate on humanitarian intervention lies that tension, which is in fact an offspring of different approaches to international relations. Therefore, it became almost a stereotype to talk about the legal/political tension between human rights and state sovereignty, non-intervention, and non-use of force in most of the scholarly works on humanitarian intervention. Moreover, traditionally, this relationship was understood in dichotomic terms,[3] and in that sense, prioritizing one norm over the other was also understood as subscribing to two opposite notions of the international system, or two interpretations of international relations.[4]

The appearance of humanitarian intervention in state practice, then, in the post-Cold War era was viewed as a substantial transition from a states system based on respect for sovereignty and non-intervention to a cosmopolitan system where individual rights trump a state's right to sovereignty, and where some sort of universal governance prevails. Despite the accumulation of state practice on humanitarian intervention and the erosion of the norms of sovereignty and non-intervention, it is difficult to claim that we have moved beyond the state-centric modern world system. Nor would it be accurate to describe the current system as purely anarchic. Therefore, one can posit that we stand somewhere between these two extreme positions. Similarly, although universal ideas have assumed increased importance in state practice, they have not transformed the realist power politics where coercion matters. What we need therefore is a theoretical construct that will help us capture the actual reality of the grey zone. The key concepts of the English school provide such an alternative framework.

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[2] Jack Donnelly, "Human Rights, Humanitarian Intervention and American Foreign Policy: Law Morality and Politics", *Journal of International Affairs* 37 (Winter 1984): 320.

[3] Kate Kelly and David P. Forsythe, "Human Rights, Humanitarian Intervention, and World Politics," *Human Rights Quarterly* 15:2 (May 1993): 312; Ihsan Dağı "Human Rights, Foreign Policy and the Question of Intervention," *Perceptions* 6 2 (June-August 2001): 105-119.

[4] Welsh also underlines that it is a debate about the boundaries of the moral community, the consequences of intervention, and the density of the values that underpin international society." Jennifer M. Welsh, "Taking Consequences Seriously," in *Humanitarian Intervention and International Relations*, ed. Jennifer Welsh. *(*Oxford: Oxford University Press, 2004), 53.

2. 1. The nature of the international system and the primacy of the society of states

The tendency to conceive humanitarian intervention and the Westphalian international system as incompatible owes a great deal to realism's legacy. Realism takes the international system as anarchical, consisting of sovereign nation-states, with no overarching authority to govern the relations among the members of the system. Moreover, realists' understanding of the international system is also static, such that system change is difficult to achieve; hence they allow limited room for normative/ideational change.

Scholars writing within the English School tradition question such rigid, sharp characterizations of the international system. They have a broader and more diverse perspective, partly because of their emphasis on historical analysis. In his *Anarchical Society*,[5] Hedley Bull first defines a *system of states* (international system), which comes into being "when two or more states have sufficient contact between them, and have sufficient impact on one another's decisions, to cause them to behave–at least in some measure–as parts of a whole." This necessitates regular contact in the sense that the interaction between states is sufficient to make the behavior of each a necessary element in the calculations of the other. States can interact directly or indirectly, and this interaction can be in the form of cooperation or conflict. A *society of states* (international society) is formed "when a group of states, conscious of certain common interests and common values, form a society in the sense that they conceive themselves to be bound by a common set of rules in their relations with one another, and share in the working of common institutions." As such, international society presupposes an international system, but an international system may exist that is not an international society.

It is the injection of a 'societal' element into a mechanical system that turns an international system into an international society. Bull further identifies three approaches to the idea of the international society, namely Hobbesian, Grotian, and Kantian, and adds that the Grotian idea of international society has always been present in intellectual thinking and state practice. Bull also notes that the basic goals of international society include a) preserving the system and the society of states itself, b) maintaining the states' independence (external sovereignty), c) peace (subordinate to the preservation of the state' system), and d) common goals of social life. When regularized patterns of activity emerge between and among states that sustain those basic goals of the society of states, we can talk about international order. I will return to these different goals while discussing humanitarian intervention below.

The above way of approaching the international system provides a better means than what is offered by other international relations theories for explaining how humanitarian intervention has found a place in the practice of modern international relations, and what it implies for the nature of the international system. Some advancement has been made in upholding universal values, which limits the autonomy of nation-states; however, it is more appropriate to define the current international system as a Grotian world, where a certain degree of norm-guided behavior coexists with states' drive for independent, autonomous action.

The aversion to humanitarian intervention is best captured by Bull's first fundamental goal of the international society: the preservation of the system and the society of states. One implication of this primacy of the survival of the international system or society is

[5] Hedley Bull, *Anarchical Society* (New York: Columbia University Press, 1995).

reflected in the supposed tension between order and justice (i.e., realization of human rights), which I will discuss in detail below. In the realist approach to international relations, due to their destabilizing effects issues of secondary importance (such as promoting human rights) were sacrificed to the maintenance of international order. In his discussion about the limited place given to human justice in international affairs, Bull cogently captures this point. He comes closer to the realist position and argues that the framework of international order "is inhospitable also to demands for human justice," and that "the society of states … displays its conviction that international order is prior to human justice."[6]

The same emphasis on the primacy of systemic stability also explains the changing attitude toward humanitarian intervention, and gives us important clues to limitations on the applicability of this new norm. As will be explained in the next section, on the changing interpretations of the conventional norms of non-intervention and sovereignty, humanitarian interventions have not been justified on a purely humanitarian/ cosmopolitan basis; instead, they have been legitimized to the extent that they have had some impact on international peace and security. As such, the practice of humanitarian intervention in the post-Cold War era served the goal of preserving the precarious and imperfect order in the international system by addressing the destabilizing effects of civil wars and humanitarian crises.

This new practice appeared to be a *via media* solution, which endeavored to find a balance between concerns for maintaining the current system on the one hand and allowing a room for humanitarian values on the other. The application of the concept thus remained selective, depending on the specific political conditions within which a humanitarian crisis emerged. As such, humanitarian intervention does not signify a transition to a post-Westphalian system. Therefore, as will be further discussed below, its future application and evolution will also be bound by the realities of the existing international order, which most probably will resist a wholesale incorporation of the concept into state practice.

2.2. Elements of society and the emphasis on common norms as regulating state conduct

Any theoretical framework to explain the practice of humanitarian intervention must accommodate the role of ideas and norms in affecting state behavior. Sovereignty and non-intervention are norms that govern state conduct. As we move our focus to such normative principles as human rights, the need to explain the place of universal ideas becomes even more pressing.

English School scholars accept that the international society is anarchic in the sense that there is no common orderer. Yet they part company with those who reject the societal dimension of international relations on the grounds that it is organized anarchically. For instance, Bull claims that the common belief that "states have to submit themselves to a common authority in order to realize a society does not apply to the international realm." Thus an 'anarchical' society is always possible, and that element of society has always been present and remains present in the modern international system. It exists "because at no stage the conception of the common interests of states, of common rules accepted and common institutions worked by them has ceased to exert an influence."

As underlined by Chris Brown, according to English School scholars, although current

[6] Bull, *op.cit.,* 85.

international society is not perfect it is still bound and regulated by shared norms.[7] As Brown further notes, its approach to norms is both descriptive and normative. For the English School, norms have constraining and enabling impacts on state behavior and strategies.[8] States generate norms to regulate their affairs because norm-governed behavior better serves the primary goals of international society. This concept is found in Bull's treatment of how order is maintained in international society, where he argues that order is a consequence of common interests, rules, and institutions. Rules function to provide guidance as to what behavior is consistent with the common goals of international society.

This conceptualization of norms as regulating state behavior in a way to serve the common goals of the international society provides the English School with a powerful means to explain the practice of humanitarian intervention. In this sense, both Westphalian principles and humanitarian values can be seen as different sets of norms, with differing degrees of relation to the basic goals of international society. Hence, both sets of norms play certain functions for maintaining order in an anarchic international society. The developments relating to those norms have important implications for the practice of humanitarian intervention. On the normative level, what happened throughout the 1990s was the coalescence of two complementary processes: a normative shift regarding the place of human rights, particularly as far as it related to the domestic-international demarcation, and a redefinition of the norms of non-intervention and sovereignty.

2.2.1. Human rights as a legitimate international concern

In her constructivist explanation of the developments regarding intervention, Martha Finnemore maintains that the shift in the 1990s cannot be understood without considering the changing normative context in which it occurs.[9] Because the traditional legal/political interpretation of sovereignty confined the issues of human rights to the national jurisdiction of sovereign states, human rights was by default of no legitimate concern to other states; thus they were dropped from the agenda of international relations.[10] As the Cold War had made non-intervention a universal norm, with its end, norms pertaining to the protection of individual rights have increasingly received general acceptance within the international community.[11] Achievements in the field of human rights have reached a stage where the question of whether human rights violations are subject to international scrutiny is no longer controversial.[12] Consequently, the idea that violations of these basic rights are no longer matters purely within states' domestic jurisdiction, and therefore that the non-intervention norm cannot be invoked as a barrier against international interference for the protection of these rights, gained ground during this period.

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[7] Chris Brown, "World Society and the English School: An 'International Society Perspective' on World Society," *European Journal of International Relations* 7 4 (2001): 427.

[8] Brown, *op.cit.,* 437. On norms and power, see: Wheeler, "Humanitarian Responsibilities of Sovereignty," in *Humanitarian Intervention and International Relations*, ed., Welsh, *op.cit.*, 30-32.

[9] Martha Finnemore, "Constructing Norms of Humanitarian Intervention," in *The Culture of National Security: Norms and Identities in World Politic,* ed. P. Z. Katzenstein, (New York: Colombia University Press, 1996) 154.

[10] Jack Donnelley, *Universal Human Rights in Theory and Practice* (Ithaca: Cornell University Press, 2003), 157.

[11] Danish Institute of International Affairs, *Humanitarian Intervention: Legal and Political Aspects (*Copenhagen: 1999), 36; Thomas G. Weiss, "The Politics of Humanitarian Ideas," *Security Dialogue* 31 1 (March 2000): 13.

[12] Nigel S. Rodley, "Collective Intervention to Protect Human Rights and Civilian Populations: The Legal Framework," in *To Loose the Bands of Wickedness,* ed. N. S. Rodley. (London: Brassey's, 1992), 24. Also see: Francis Kofi Abiew, *The Evolution of the Doctrine and Practice of Humanitarian Intervention* (The Hague: Kluwer Law International, 1999), 98-99.

These developments have been further strengthened by the growing belief that maintaining international peace and security and protecting fundamental human rights are interdependent.[13] In the post-Cold War period, a consensus emerged that massive and widespread violations of human rights stemming from government repression, internal conflict, and failed states, and the human suffering these conditions generate, may constitute threats to international peace and security. Therefore, such matters do not fall exclusively within states' domestic domains. The SC, acting as the representative of the international community, may take necessary measures, including the use of force, to address such situations.[14] Against this background, the SC has assumed a more assertive role in protecting human rights by invoking its powers regarding the maintenance of international peace and security. In so doing, the SC has engaged in a broader interpretation of what amounts to a threat to peace. Similarly, the interdependence between human rights and international security has been the basic driving motive of unauthorized interventions.[15]

The new normative concern for universal human rights has had an enabling impact on broadening the scope of intervention. Consequently, international opposition to acts of intervention on humanitarian grounds has diminished in breadth.

2.2.2. Redefinition of sovereignty and non-intervention

The post-Charter international state system was inspired by the so-called Westphalian legacy. The Westphalian norms, particularly sovereignty and non-intervention, which for a long time constituted an obstacle to human rights promotion, are derived from the anarchical conceptualization of the international system.[16] Because such a system is composed of sovereign units, states are granted exclusive jurisdiction over the territory they control and the people living in it. The logical corollary of sovereignty is the norm of non-intervention, which prohibits states from taking action in the internal affairs of other states.

It was noted earlier that there is tension between these twin norms and human rights, and traditionally, this tension was resolved in favor of the non-intervention side of the equation because sovereignty and non-intervention were treated as sacrosanct principles. It was traditionally understood that intervention into each other's domestic affairs was not in accord with the proper behavior of sovereign equals; hence was prohibited, however laudable the motives might be. Therefore, the strongest criticism against humanitarian intervention has been implicitly based on this 'statist paradigm,' which prioritizes the rights of states over the rights of individuals, thus prioritizes the norms of sovereignty and non-intervention over human rights.[17] Defenders of the Westphalian principles, including English School scholars, note the importance of these norms in maintaining international order and point out the disruptive implications of humanitarian intervention. As such, they draw our attention to the factors that constrain the place of humanitarian intervention. They also, however, recognize the prospect that, with changes in international relations, the rationale underlying these norms

[13] Albrecht Schnabel, "Humanitarian Intervention: A Conceptual Analysis," in *Peacekeeping at a Crossroads,* eds. S. Neil Mac Farlane and Hans-Georg Ehrhart (Clementsport: The Canadian Peacekeeping Press, 1997), 27.

[14] Francis Kofi Abiew, "Assessing Humanitarian Intervention in the Post-Cold War Period: Sources of Consensus," *International Relations* 14 2 (August 1998): 62.

[15] In the case of Kosovo, only two NATO members referenced purely humanitarian concerns. The rest of NATO relied on previous SC resolutions, which defined the situation in Kosovo as posing threats to regional peace and security.

[16] R. J. Vincent, *Human Rights and International Relations* (Cambridge: Cambridge University Press, 1986), 113-114.

[17] Robert H. Jackson, "Armed Humanitarism," *International Journal* 48 (Autumn 1993): 582-583. Also see Welsh, *op.cit.*, 63-67.

might also be altered. In such cases of change, in order to better serve the maintenance of world order, these norms might be subjected to reinterpretation.

2.2.2.1. Non-intervention

As a historical fact, the idea that non-intervention holds a primary place had a distinctly utilitarian rationale. The norm of state sovereignty and its corollaries, which are the products of centuries-long Western historical development characterized by the atrocities inherent in wars for ideological and religious purposes, have important moral standing, and the non-intervention principle has not served badly in maintaining world order since the enactment of the UN Charter.[18] In his pluralist approach to international society, Bull treats non-intervention, along with a reciprocal recognition of sovereignty, as part of the rules of coexistence in an anarchic society because it serves important purposes. As analyzed by Lori Damrosch, non-intervention has two principal functions: to minimize interstate conflict and to preserve state autonomy.[19] Since these norms are expected to support the functioning of the international order, hence the basic goals of international society, Bull obviously would value the minimization of interstate conflict because it would also uphold security, one of the goals of social life. On the issue of autonomy, Bull writes:

> [T]here is the goal of maintaining the independence of external sovereignty of individual states. From the perspective of any particular state what it chiefly hopes to gain from participation in the society of states is recognition of its independence of outside authority, and in particular of its supreme jurisdiction over its subjects and territory. The chief price it has to pay for this is recognition of like rights to independence and sovereignty on the part of the other states.[20]

Similarly, R. J. Vincent underlines that non-intervention allows a degree of pluralism and variety within the states,[21] which strengthen and protect state autonomy. As such, this principle also upholds the right of the people in the state to self-determination. This idea goes back to John Stuart Mill and is advocated in modern times by Michael Walzer. His idea of communal integrity leads to the conclusion that states are moral entities and should therefore enjoy the right of non-intervention.[22] By endeavoring to restrain the use of armed force and reduce war among states, the non-intervention norm somehow implies an orderly world, where different societies may coexist in a relatively peaceful atmosphere of harmony and concord. This set of norms, therefore, was enshrined in the UN Charter and gained wide acceptance among the international community as fundamental values to be upheld. These principles were considered so valuable that they allowed no room for humanitarian intervention in breaches of the international order, even for the purpose of alleviating human suffering. This position is best summarized by Nicholas Wheeler and Justin Morris. They note that, from a realist perspective, the main weakness of the defenders of humanitarian intervention is that because they focus on individual cases of human suffering, they fail "to see that issuing a license for

[18] Adam Roberts, *Humanitarian Action in War: Aid, Protection and Impartiality in a Policy Vacuum (*London: The International Institute for Strategic Studies, Adelphi Paper 305, 1996), 20; David Fisher, "The Ethics of Intervention," *Survival* 36 1 (Spring 1994): 52.

[19] Lori F. Damrosch, "Introduction," in *Enforcing Restraint: Collective Intervention in Internal Conflict,* ed. Lori F. Damrosch (New York: Council on Foreign Relations Press, 1993) 8. Also compare Stanley Hoffmann, "Sovereignty and the Ethics of Intervention," in *The Ethics and Politics of Humanitarian Intervention* ed. Stanley Hoffmann (Notre Dame: University of Notre Dame Press, 1996), 12. Moreover, see Roberts, *op.cit.*, 19.

[20] Bull, *op.cit.*, 16-17.

[21] Vincent, *op.cit.*, 117.

[22] Michael Walzer, *Just and Unjust Wars (*New York: Basic Books, 2000). Also see: Welsh, *op.cit.*, 60-62.

humanitarian intervention is likely to bring about a generalized erosion of the norms of non-intervention and non-use of force, and with it a long-term reduction in general well-being."[23]

Yet, in the current era of spreading ethnic conflicts and state collapses resulting in extreme human suffering on the one hand, and growing global awareness and increasing possibilities for international cooperation on the other, a need for revisiting this dilemma has been increasingly recognized. (Here it is important to note that the UN Charter also advances norms pertaining to human rights.) Then, the question can be put as follows: What happens when these two sets of values are in conflict with each other and the non-intervention norm stands as an obstacle to justice and the realization of basic human rights? Hence, the question posed by Adam Roberts: "Can that rule [of non-intervention] really apply when the situation is so serious that the moral conscience of mankind is affronted? What is the ethical or logical foundation of the rule that makes it so rigid, so uncomprehending of misery, that it cannot allow for exceptions?"[24]

Or, as Stanley Hoffmann starkly puts it, refusing unilateral intervention completely may improve global social order, yet, by allowing grave injustices to persist, it could also harm justice, which is another respectable value for the world community.[25] For this reason, in certain conditions a blind attachment to the norm of nonintervention would create inconsistencies with the real world and put the very idea of that norm into question, and this weakness has been the primary concern expressed by scholars and practitioners about the scope of the principle of non-intervention.

Cognizant of the tension between order and justice and the relationship between this tension and the norm of non-intervention, Bull devotes a chapter to this problematic relationship.[26] He highlights the incompatibility between demands for individual/human justice and cosmopolitan justice and international order. He thinks that only interstate justice can be accommodated within the current system. Although his realist side dominates and he sees order as a precondition for the realization of other values, including justice, he still concedes to contextual judgments; i.e., the decision about order versus justice should be evaluated on the basis of the merits of a particular case. This leaves international society an important avenue by which to accommodate concerns for justice.

Along the same lines, Bull later observes that the non-intervention norm in its absolute meaning does not reflect reality and therefore begs to be modified and adapted to meet the circumstances and needs of the present time.[27] As Hoffmann points out, "there are many cases in which the effects of non-intervention might be worse than those of intervention, either on political or moral grounds."[28] Against this background, Roberts notes that, "one might even say that if a coherent philosophy of humanitarian intervention were developed,

[23] Nicholas Wheeler and Morris, Justin, "Humanitarian Intervention and State Practice at the End of the Cold War," in *International Society after the Cold War: Anarchy and Order Reconsidered* eds. Rick Fawn and Jeremy Larkins (London: Macmillan Press Ltd., 1996) 166. See also J.L. Holzgrefe, "The Humanitarian Intervention Debate," in *Humanitarian Intervention: Ethical, Legal, and Political Dilemmas* eds. J.L. Holzgrefe and Robert O. Keohane (Cambridge: Cambridge University Press, 2003), 23-24.

[24] Roberts, *op.cit.*, 20.

[25] Hoffmann, "Sovereignty and the Ethics of Intervention," 22. Also see Stephan A. Garrett, *Doing Good and Doing Well: An Examination of Humanitarian Intervention* (Westport: Praeger Publishers, 1999) 51.

[26] Bull, *op.cit.*, Chapter IV.

[27] Hedley Bull, Conclusion to *Intervention in World Politics* ed. Hedley Bull (Oxford: Clarendon Press, 1984) 187. For the shift in approaches to non-intervention, also see Daniel Ortega, *Military Intervention and the European Union* (Paris: Institute for Security Studies, Western European Union, Chaillot Paper 45, March 2001), 23. A good account of the challenge against non-intervention can be found in R. Little, "Recent Literature on Intervention and Non-intervention", in *Political Theory, International Relations and the Ethics of Intervention* eds. Ian Forbes and Mark Hoffmann (London; Macmillan Press, 1993), 24.

[28] Hoffmann, "Sovereignty and the Ethics of Intervention", 20.

it could have the potential to save the non-intervention rule from its own logical absurdities and occasional inhumanities."[29]

A coherent and universally agreed-upon philosophy of humanitarian intervention has not yet been agreed upon,[30] but developments in the post-Cold War period amounted to a significant shift in this direction. Achievements regarding the internationalization of human rights and the contracting scope of domestic jurisdiction have already been noted. The emergence of the practice of UN-authorized humanitarian intervention was also quite influential in undermining the absolute interpretation of the norm of non-intervention. This practice made it clear that under circumstances of extreme humanitarian emergency, traditional norms of sovereignty and non-intervention can be overridden by the international community for the purpose of ending human suffering, provided that political conditions allow for the realization of such an intervention. This has been, moreover, the common theme expressed by three successive UN secretaries general in the 1990s, which thus paved the way for the new consensus on humanitarian intervention around the new concept of responsibility to protect.

Indeed, the developments in the post-Cold War period that culminated in the R2P doctrine were basically a reconsideration of the principles of non-intervention and state sovereignty. As a result, though these developments did not transform the norm of non-intervention, they created conditions favorable to the emergence of humanitarian intervention as an acceptable form of policy to end human suffering.[31] As such, they also helped redefine the norm to make it better fit the realities of current world politics.

This was in a sense the realization of what Bull observed about the future of intervention in world politics: intervention through multilateralism and collective action. He notes that "if, however, an intervention itself expresses the collective will of the society of states, it may be carried out without bringing that harmony and concord (of the society of sovereign states) into jeopardy."[32] In the same vein, Damrosch notes that the shift from unilateral intervention to collective involvement allows preserving the values of conflict containment and autonomy implicit in the non-intervention norm.[33] The practices of the UN, as the expressed will of international society, helped eliminate the objection to humanitarian intervention. Although opposition to unauthorized intervention still continues, the fact that the post-Cold War cases of humanitarian intervention without SC authorization were conducted by different regional organizations or a group of states that enjoy great legitimacy among the society of states should be kept in mind. Further, these interventions were carried out in a multilateral fashion and therefore come closer to Bull's observation; they expressed the collective will of at least a certain part of the society of states. Their multilateral character puts important checks and balances on the way the intervention was conducted and therefore did not let the interventions jeopardize order. For this reason, these acts of intervention were realized without posing any serious threats to the international order.[34]

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[29] Adam Roberts, "The Road to Hell: A Critique of Humanitarian Intervention," *Harvard International Review* 16 1 (Fall 1993): 11.

[30] For a critical account, see: Thomas Weiss, "The Sunset of Humanitarian Intervention? The Responsibility to Protect in a Unipolar Era," *Security Dialogue* 35 2 (2004): 135-153.

[31] The idea that the Westphalian structure is being modified but that a new one has not emerged is advocated by Weiss, "The Politics of."

[32] Bull, "Conclusion," 195. For his remarks on the impact of "the growing legal and moral recognition of human rights on a world-wide scale" regarding the problem of humanitarian intervention, see p.193.

[33] Lori F. Damrosch, "Concluding Reflections", in *Enforcing Restraint.* ed. Damrosch. *op.cit.*, 354.

[34] The most controversial case in this regard was the NATO intervention in Kosovo, which had the potential to deteriorate

2.2.2.2. Sovereignty

The objection to humanitarian intervention is also justified with reference to an absolute understanding of the principle of sovereignty. Within such a conceptualization, due partly to the autonomy principle inherent in it (discussed above), sovereignty is the fundamental guarantee for the enjoyment of people's basic rights. If there will be attempts to promote and implement international human rights, according to the above way of thinking, such attempts must pay due attention to the principles of sovereignty and non-intervention.[35] Therefore, an intervention amounting to a breach of sovereignty is also seen as a violation of the basic rights of the people. In other words, foreign interference is seen as a greater evil than the violation of some human rights by the sovereign authority itself. Although they accept the importance of human rights, the supporters of this view stress that the main and sole responsibility for the realization of these rights rests in national states. This view has been voiced by non-Western countries as well.[36] For this reason, concerns for human rights cannot override sovereignty.

Bull also recognizes the idea that individual justice can only be achieved through the agency of states, and that the implementation should be confined to the domestic level lest it lead to disorder in the international society. As such, the English School provides a strong explanation for the inherent tendencies among states to decry incorporating humanitarian intervention into state practice.[37]

In the context of the humanitarian intervention debate, the terms in which sovereignty and intervention are examined need to be altered under the existing realities. It is increasingly agreed upon that humanitarian intervention is different in essence from other forms of intervention. This difference can be best stated by an analytical distinction between the internal and external aspects of sovereignty. Intervention in general aims at the external dimension of sovereignty in order to affect the relations of the target state with other sovereign counterparts. Humanitarian intervention, however, relates to the internal aspect of sovereignty.

It is true that for the citizens of a state to be free and enjoy their rights, there must be an independent political space for them. The state in question must thus be free from external interference, which is what the external aspect of the sovereignty and non-intervention norms assures. As discussed above, in addition to minimizing interstate conflict, these norms also aim at preserving a state's autonomy. Yet, in the post-Cold War era, a common understanding emerged that preserving autonomy should not be seen as an end in itself but as a means for realizing the basic human rights of individuals living within the boundaries of sovereign states. Kofi Annan reflects this new understanding by maintaining that

> [s]tate sovereignty, in its most basic sense, is being redefined–not least by the forces of globalization and international co-operation. States are now widely understood to be instruments at the service of their peoples, and not vice versa. At the same time individual sovereignty–by which I mean the fundamental freedom of each individual, enshrined in the charter of the UN and subsequent international treaties–has been enhanced by a renewed and

the relations between Western countries and China and Russia. Yet, despite this potential danger, the intervention was successfully concluded without the feared expectations realized. Even Russia later joined the international efforts for the reconstruction of Kosovo and KFOR.

[35] Kimberly Stanton, "Pitfalls of Intervention," *Harvard International Review* 16 1 (Fall 1993): 15.

[36] See, for instance, Chu Shulong, "China, Asia and Issues of Sovereignty and Intervention," *Pugwash Occasional Papers* 2 1 (January 2001): 42.

[37] For a contemporary statement of that position, see Mohammed Ayoob, "Humanitarian Intervention and State Sovereignty," *International Journal of Human Rights* 6 1 (2002): 81-102.

> spreading consciousness of individual rights. When we read the charter today, we are more than ever conscious that its aim is to protect individual human beings, not to protect those who abuse them.[38]

From this perspective, the question of humanitarian intervention has little to do with the external aspect of sovereignty; rather it is related to the internal aspect and how sovereignty is constructed. Indeed, humanitarian intervention is about the very essence of the relation between sovereign authority and its citizenry. As noted by liberal political theory,[39] the internal aspect of sovereignty is built on the assumption that the sovereign authority is charged with the duty to create a suitable atmosphere for the people living within its jurisdiction to fulfill their basic rights. The problem, then, starts when the sovereign authority fails to provide the conditions essential to the fulfillment of basic rights (the problem of failed states) or itself abuses these rights (the problem of oppressive governments). Humanitarian intervention, in this light, aims at rectifying the relationship between the government and the governed and the way the internal aspect of sovereignty is constructed. In other words, it has no direct bearing on the external aspect of sovereignty.

Thus, the argument that sovereignty is a prerequisite to the fulfillment of the basic rights of individuals has undergone an important transformation without undermining the power of the sovereignty norm itself. Today, most humanitarian emergencies are taking place in countries where the sovereign authorities are unable to provide the conditions to enjoy basic rights. Although the decolonization process created a great number of new states and there was nominally a Westphalian system throughout the Cold War years, in reality most of these states lacked the attributes of internal sovereignty. In most cases, there was no domestic cohesion and the central authorities were barely able or unable to monopolize the use of force, which is the defining character of being 'sovereign.' Yet, Cold War politics helped these states avoid confronting their underlying problems. With the shield provided by Cold War conditions cast aside and the globalization process underway, the discrepancy between the real conditions prevailing in the developing world and the absolute interpretations of sovereignty have become more and more visible. As a result, the world has been faced with a range of "totally or partially failed, troubled or murderous states whose claims to sovereignty are [or were] either unsustainable or unacceptable."[40] This is actually where the dilemma of non-intervention starts. Rulers who lost internal legitimacy by their inability to provide an autonomous domestic sphere have been mostly protected by the external aspect of sovereignty, which was expressed by the principle of recognition in the international community. They remained in power at the expense of the society as a whole, which led to the protection of injustice by the non-intervention norm itself.

In this regard, the post-Cold War practice of humanitarian intervention reflected a new understanding of the twin principles of sovereignty and non-intervention. Rather than going beyond traditional Westphalian norms, this new way of thinking sought to reconcile international intervention with traditional state sovereignty in what Francis Deng first called 'sovereignty as responsibility.'[41]This notion has influenced most of the conceptual

[38] Kofi Annan, "Two Concepts of Sovereignty," *The Economist,* September 16, 1999, 49.

[39] For a summary of the liberal case on intervention, see Stanley Hoffmann, "The Politics and Ethics of Military Intervention," *Survival* 37 4 (Winter 1995-1996): 35.

[40] Hoffmann, "The Politics and Ethics," 31.

[41] Deng, Special Representative to the UN Secretary-General, articulates his approach in a number of publications. Francis M. Deng, *Protecting the Dispossessed: A Challenge for the International Community* (Washington DC: Brookings, 1993); Francis M.

attempts to generate consensus on the issue, and it underscores a state's responsibilities and accountabilities to domestic *and* international constituencies. Accordingly, for a state to claim the prerogatives of sovereignty it must meet internationally agreed-upon responsibilities, which include respecting human rights and providing life-sustenance to its citizens. In this conceptualization it is important that the first level for protecting individual rights remains the state in question. As such, this approach represents an attempt to allay the concerns of developing countries, mentioned above. Only when a state fails to meet such obligations, then is it legitimate for the international society of responsible states[42] to intrude in that state's affairs and even undertake military intervention.[43]

This post-Cold War practice showed that when such an act is carried out by the SC opposition seems to dissolve. In cases of extreme human suffering there is also a growing support for, or at least acquiescence to, unauthorized intervention. Therefore, it could be concluded that this interpretation of humanitarian intervention approaches the notion of sovereignty as responsibility and offers a promising amendment to the unrestricted interpretation of non-intervention and sovereignty.[44] The consensus around the R2P doctrine underscores this trend in international politics.[45]

As such, this reinterpretation also serves to consolidate the international system, rather than undermine it. Despite his warnings against the incorporation of human justice into state conduct, noted above, Bull nonetheless admits that the continuation of the states system necessitates that the element of international society in it should be preserved and strengthened. This commitment requires maintaining and extending consensus about common values, as well as common interests.[46] Moreover, he also believes that prospects for international society are bound by the prospects of a cosmopolitan culture, which will increasingly need to absorb non-Western traditions. To the extent that it helps advance common values and generates a universal consensus on minimum standards of behavior, the practice of humanitarian intervention is likely to enhance the societal dimension in the international system, hence strengthen it.

This practice also realizes the last goal of international society identified by Bull: upholding the common goals of the social life. Unlike many realists, Bull does not isolate international society from the domestic realm; rather, he treats it as an extension of human social life. In Bull's understanding, the elementary goals of social life include securing life against violence, keeping promises and observing agreements, and ensuring the possession

Deng,, et al., *Sovereignty as Responsibility* (Washington DC: Brookings, 1995).

[42] This new understanding raises an important moral question about the other side of the coin: responsibility of other states to intervene to halt humanitarian crises. This concept imposes significant limitations on the external sovereignty of powerful outsiders; i.e., they cannot remain silent to human suffering elsewhere. A good moral philosophical argument that there are specific limits to states' right to ignore the ill-treatment of residents within the territories of other states can be found in Henry Shue, "Limiting Sovereignty," in *Humanitarian Intervention and International Relations*, ed. Welsh, *op.cit.*, 11-28.

[43] However, the criticism that these new developments undermine the existing rights of democracy, i.e., sovereign equality and self-government preserved in the UN Charter framework, has not disappeared. These concerns were mainly raised by the neo-left and liberal left. For a strong argument to that effect, see David, Chandler, "New Rights for Old? Cosmopolitan Citizenship and the Critique of State Sovereignty," *Political Studies* 31 (2003): 332-349.

[44] Wheeler, employing the international society approach and constructivism, provides a powerful analysis of the emergence of this new norm: Wheeler, "Humanitarian Responsibilities," 32-41. See also Wheeler, *Saving Strangers* (Oxford: Oxford University Press, 2001).

[45] However, it has been suggested that sovereign authority has been understood to involve varied and evolving responsibilities since it was first articulated in the sixteenth and seventeenth centuries. See Luke Glanville, "The Antecedents of 'Sovereignty as Responsibility'," *European Journal of International Relations* 17 2 (2011): 233-255.

[46] Even his notion of common interest, which is one of the instruments of maintaining order, is related to the elementary goals of the international society.

of things. By securing life against violence, humanitarian intervention thus becomes an important instrument in realizing the goals of international society, hence further contributes to its proper functioning.

2.3. State-centrism and the restoration of actorhood

The state remains the primary actor in the international society approach. Although English School scholars recognize the possibility of alternatives to the states system, they also point out strong tendencies to perpetuate it. Therefore they emphasize maintaining and strengthening the existing society of states.[47] This state-centrism is a source of strength that adds to the explanatory capability of the English School, and it applies to both ends of intervention: the actors and the objects.

2.3.1. The actors: state-driven process

Indeed, a careful examination of the new consensus on humanitarian intervention suggests that states and state-controlled institutions are still the major actors in its intellectual and practical aspects. Despite the involvement of NGOs and the UN Secretary-General, the main push for the R2P approach came from liberal Western states. Although the UNSC has the legal authority to authorize interventions for humanitarian purposes, actual decisions to intervene and the conduct of interventions still remain dependent on state policies, particularly those of great powers. The conduct of interventions especially is still bound by the availability of effective means of armed coercion, which is still under the sole possession of individual states, or regional alliances such as NATO. So, as expressed by Bull, in the absence of a supreme government or solidarity among themselves, states took the initiative to realize common rules. States are, in that sense, the primary institutions or agents of international society. Bull underlines thus that individual justice and protection of human rights can be realized only through the mediation of states. He also notes that protection of human rights will be selective and through the mechanisms of international politics.

Nation-states will continue to be with us for some time, and they would likely oppose a process which would lead to the emergence of supranational authority structures above themselves, hence undermining the current system drastically. For this reason, despite the enhanced place given to humanitarian intervention, it still remains an exception rather than a rule. States opposed to the emergence of a norm that would create legal and political obligation to intervene in every case. As argued earlier, currently, the decision to intervene is still conditional on political conditions, i.e., the readiness of states to bear the material and human costs of humanitarian intervention.

As a result, post-Cold War norms on humanitarian intervention have been permissive rather than binding. Thus, the application of the concept remained selective, depending on the specific political conditions within which a humanitarian crisis emerged. Some human rights violations still remained untouched, as in Chechnya. The declining interest in humanitarian intervention in the post-September 11 era, and the long-time inability of the international community to stop the bloodshed in Burundi and Darfur have been reminders of how untenable the post-Cold war consensus on humanitarian intervention was. As the American commitment to global norms has been eroded by the concern to counter threats to US national

[47] Bull maintains that the "world political system is currently a system of states but there is nothing to suggest that it may not be transformed one day. There could be new forms of universal political organizations."

interests, the use of force has assumed a new rationale, the international community has developed aversion to permissive uses of force, and the global hegemon itself has become the violator of fundamental rights, the post-September 11 period witnessed a declining place for humanitarian intervention. The inability to mount a more credible reaction to the ongoing conflict in Syria also underscores this decline.

2.3.2. Objects of intervention: restoration of sovereignty

While discussing the reinterpretation of sovereignty, it was underlined how humanitarian intervention came to redefine the internal dimension of sovereign statehood. With its emphasis on the primacy of the state as the main actor in world politics, the English School has an analytical superiority over cosmopolitan approaches. As argued earlier, under the current consensus, the state becomes the first to address the rights of individuals. Only after it fails to fulfill its obligations can international society step in to enforce such rights.

What happens to the state in question after intervention is also important. One significant consequence of the cases of humanitarian intervention in the post-Cold War period has been their post-conflict reconstruction.[48] In none of the cases did the intervening states attempt to occupy the country in question; rather they initiated major projects to rebuild it. This post-Cold War practice has important implications for the tension between sovereignty and intervention. Humanitarian interventions have been aimed at strengthening, not overcoming, a state and state sovereignty. The target states were provided a helping hand to (re)emerge as sovereign states. On this point, the English School also has analytical advantages. This process involved consolidation but at the same time a *redefinition* of sovereignty. While strengthening the norm of state sovereignty, the new practice added important qualifications to it, as discussed above.[49] That is, in this new understanding, sovereignty does not guarantee a state an automatic right to protection under the non-intervention norm. To claim this right, a state now has to fulfill its duties, one of which is to respect the fundamental human rights of its own citizens. In other words, the legitimacy of state is redefined to include respect for individual rights.

This new normative assumption now constitutes one of the basic preconditions for membership into international society. From this perspective, humanitarian intervention becomes an important tool for restoring state authority to create more members of the society of states that are respected. By strengthening states possessing little attributes of sovereignty, this process strengthens the existing states system, which is based on sovereign nation-states. The idea that a state's right to enjoy the privileges of sovereignty depends on its possession of certain qualifications has always been underlined by the scholars of the English School, and it dates back to the founders of modern international law–natural law tradition–such as Grotius, Wolf, and Vattel, whom English School scholars highly value.[50]

3. Conclusion

I have endeavored to make a case that the existing Westphalian order has built-in brakes

[48] Keohane also argues for unbundling the concept of sovereignty for the establishment of legitimate authority after intervention. Non-Westphalian conceptualizations of sovereignty need to be developed. Robert O. Keohane, "Political Authority after Intervention: Gradations in Sovereignty," in *Humanitarian Intervention,* eds. Holzgrefe and Keohane, *op.cit.*, 275-298.

[49] These qualifications are also the basis for further criticism for the new practice of interventionism. Chandler calls it replacing sovereign equality with cosmopolitan "sovereign inequality." Chandler, *op.cit*, 343.

[50] Holzgrefe, *op.cit*, 25-28.

against incorporating humanitarian intervention. Yet, post-Cold War developments regarding conventional norms of sovereignty and non-intervention in world politics on the one hand, and the growing space for the protection of human rights on the other, have eased worries about the prospect for order in the international system and created a suitable environment for including humanitarian intervention. Through reinterpreting Westphalian principles in light of the post-Cold War era realities of international relations (such as increased intrastate violence, and the linkage between human rights and security, which were the underlying reasons behind the post-Cold War cases of humanitarian intervention) humanitarian intervention has enhanced the prospects for preserving the states system, rather than undermining it. The post-Cold War practice of humanitarian intervention thus can be considered a *via media* solution, which endeavors to find a balance between concerns for maintaining the current system on the one hand, and allowing a room for humanitarian values on the other.

In this article I attempted to show that the international society approach, particularly Bull's discussion about the fundamental goals of international society and the norms of sovereignty and non-intervention, provides important insights for understanding the place of humanitarian intervention in conceptual discussions and state practice. The English School directs our attention to the enabling and constraining factors of that approach, and as such it suggests both promise and caution about the prospects for humanitarian intervention. By highlighting the primacy of the international order and the primacy of the nation states, the English School explains the existing tendencies for the opposition to wholesale incorporation of humanitarian intervention and alerts us that this incorporation will likely never fully take place. Similarly, through its emphasis on the power of the Westphalian order's founding norms, and their function for preserving the society of states, the English School further underlines the difficulties involved in incorporating humanitarian intervention into them. On the other hand, it also highlights the importance of maintaining the peace and common goals of social life, and the need for shared values for strengthening the societal element of the international system. As such, this school points out factors permissive to the 'limited' incorporation of humanitarian intervention. Likewise, by highlighting the prospects for reinterpreting the traditional norms of non-intervention and sovereignty, it shows the likelihood of accommodating humanitarian intervention within the confines of existing international society without necessarily moving it in a cosmopolitan direction.

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